



**COMMONWEALTH of VIRGINIA**  
**DEPARTMENT OF ENVIRONMENTAL QUALITY**

**WARNING LETTER**

11/16/2015

Scott Thornton, Project Coordinator  
201 James Avenue, P.O. Box 3401  
Colonial Heights, VA 23834

Re: WL No. 2015-10-PRO-301  
Local TMDL Action Plan, City of Colonial Heights MS4  
Permit Registration # VAR040009

Dear Mr. Thornton:

This letter notifies you of information upon which the Department (DEQ or the Department) may rely in order to institute an administrative or judicial enforcement action. Based on this information, DEQ has reason to believe that the City of Colonial Heights may be in violation of the State Water Control Law, the Virginia Stormwater Management Program Regulation (the Regulation), and the General VPDES Permit for Discharges from Small Municipal Separate Storm Sewer Systems (MS4 General Permit).

This letter describes results of a file review and compliance requirements of the State Water Control Law, the Regulation, and the MS4 General Permit. Pursuant to Va. Code § 62.1-44.15(8a), this letter is not a case decision under the Virginia Administrative Process Act, Va. Code § 2.2-4000 *et seq.* (APA). DEQ requests that you respond **within 14 days of the date of this letter with the requested document.**

**OBSERVATIONS AND LEGAL REQUIREMENTS**

The City of Colonial Heights operates a MS4 regulated under the Virginia Stormwater Management Program Regulation, 9 VAC 25-870-10 *et seq.* Discharges to state waters from the City of Colonial Heights MS4 are authorized under the MS4 General VPDES Permit VAR04 as evidenced by registration number VAR040009. Section I B.5. of the MS4 General Permit requires submission of TMDL Action Plans in accordance with the schedule contained in Table 1 of the MS4 General Permit. According to DEQ records, the Appomattox River Basin TMDL was approved before 2008 and included Waste Load Allocations (WLAs) for the City of Colonial Heights. TMDL Action Plans for local TMDLs (TMDLs other than the Chesapeake Bay TMDL) that were approved before July 2008 were required to be submitted with the Annual Report due by October 1, 2015. As of the date of this letter, DEQ has no record of receipt of a TMDL Action Plan from you for the Appomattox River Basin TMDL.

**Within 14 of the date of this letter**, you are requested to submit a TMDL Action Plan for the Appomattox River Basin TMDL in accordance with the requirements of Section I.B. of the MS4 General Permit.

### **ENFORCEMENT AUTHORITY**

Va. Code § 62.1-44.23 of the State Water Control Law provides for an injunction for any violation of the State Water Control Law, any State Water Control Board rule or regulation, an order, permit condition, standard, or any certificate requirement or provision. Va. Code §§ 62.1-44.15 and 62.1-44.32 provide for a civil penalty up to \$32,500 per day of each violation of the same. In addition, Va. Code § 62.1-44.15 authorizes the State Water Control Board to issue orders to any person to comply with the State Water Control Law and regulations, including the imposition of a civil penalty for violations of up to \$100,000. Also, Va. Code § 10.1-1186 authorizes the Director of DEQ to issue special orders to any person to comply with the State Water Control Law and regulations. Va. Code §§ 62.1-44.32(b) and 62.1-44.32(c) provide for other additional penalties.

The Court has the inherent authority to enforce its injunction, and is authorized to award the Commonwealth its attorneys' fees and costs.

### **FUTURE ACTIONS**

After reviewing this letter, please respond to DEQ by submitting a TMDL Action Plan for the Appomattox River Basin TMDL **within 14 days of the date of this letter**. If you are unable to provide the plan within 14 days, DEQ requests that you provide a written explanation of why the plan cannot be submitted and a timeframe for its submission. If corrective action will take longer than 90 days to complete, the City of Colonial Heights may be asked to sign a Letter of Agreement or enter into a Consent Order with the Department to formalize the plan and schedule for submission of the TMDL Action Plan.

Please advise us if you dispute any of the observations recited herein or if there is other information of which DEQ should be aware. In the event that discussions with staff do not lead to a satisfactory conclusion concerning the contents of this letter, you may elect to participate in DEQ's Process for Early Dispute Resolution. Also, if informal discussions do not lead to a satisfactory conclusion, you may request in writing that DEQ take all necessary steps to issue a final decision or fact finding under the APA on whether or not a violation has occurred. For further information on the Process for Early Dispute Resolution, please refer to Chapter 2 (General Enforcement Procedures) Part I.E. of the Agency's Enforcement Manual, posted on the Department's website under "Programs," "Enforcement," and "Laws, Regulations, & Guidance"

(<http://www.deq.virginia.gov/Portals/0/DEQ/Enforcement/Manual/Chapter2/attachments/Chapter2-Text.pdf>) or ask the DEQ contact listed below.

Your contact at DEQ in this matter is Joseph Bryan. Please direct written materials to his attention. If you have questions or wish to arrange a meeting, you may reach him directly at (804) 527-5-12 or [joseph.bryan@deq.virginia.gov](mailto:joseph.bryan@deq.virginia.gov).

Sincerely,



Emilee C. Adamson  
Planning and VPDES Permit Manager

cc: CASE FILE  
ENFORCEMENT SPECIALIST